UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,744	04/16/2004	John Harper	P3356US1 (119-0036US)	1362

29855   7590   11/26/2008
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI,
L.L.P.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

EXAMINER
MCDOWELL, JR, MAURICE L

ART UNIT	PAPER NUMBER
2628	

MAIL DATE	DELIVERY MODE
11/26/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _16 April 2004_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _76-80_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _76-80_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _5/9/2006; 1/20/2006; 11/18/2005; 1/5/2005_.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1.   The nonstatutory double patenting rejection is based on a judicially created doctrine

grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or

improper timewise extension of the "right to exclude" granted by a patent and to prevent possible

harassment by multiple assignees.   A nonstatutory obviousness-type double patenting rejection

is appropriate where the conflicting claims are not identical, but at least one examined

application claim is not patentably distinct from the reference claim(s) because the examined

application claim is either anticipated by, or would have been obvious over, the reference

claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re*

Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225

USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re*

Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163

USPQ 644 (CCPA 1969).

        A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may

be used to overcome an actual or provisional rejection based on a nonstatutory double patenting

ground provided the conflicting application or patent either is shown to be commonly owned

with this application, or claims an invention made as a result of activities undertaken within the

scope of a joint research agreement.

        Effective January 1, 1994, a registered attorney or agent of record may sign a terminal

disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR

3.73(b).

2.   Claims 76-77 are provisionally rejected on the ground of nonstatutory obviousness-type

double patenting as being unpatentable over claims 1-2 of copending Application No.

10/825,694. Although the conflicting claims are not identical, they are not patentably distinct

from each other because they are both directed to graphics and image operations.

        This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting

claims have not in fact been patented.

Instant Application: 10/826,744	Co-pending Application no: 10/825,694
76. (Original) **A method of applying two effects to an image, the method comprising the steps of using a first microprocessor to apply a first effect to a first frame of said image**, said first microprocessor applying said first effect while emulating a second microprocessor; **using** said **second microprocessor to apply a second effect to said first-effected frame,** applying said first effect to a next frame by said first microprocessor approximately during the time that said second microprocessor is applying said second effect to said first-effected frame.**	**A method of applying two effects to an image, the method comprising the steps of using a first microprocessor to apply a first effect to a first frame of said image**, using a **second microprocessor to apply a second effect to said first-effected frame, applying said first effect to a next frame by said first microprocessor approximately during the time that said second microprocessor is applying said second effect to said first-effected frame**.

| 77. (Original) **The method** of claim 76 **wherein the first microprocessor is a CPU and the second microprocessor is a GPU.** | 2. **The method** of claim 1 **wherein the first microprocessor is a CPU and the second microprocessor is a GPU.** |

Looking at the above table that uses a side-by-side comparison of the claims, of the instant application and application no.: 10/825,694, it is clearly shown that the claims are similar. For example in claim 76, it would have been obvious to have a first microprocessor applying said first while emulating a second microprocessor to increase the speed of parallel processing.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 76-80 are rejected under 35 U.S.C. 102(e) as being anticipated by Eguchi et al. Pub. No.: US 2004/0005928 A1.

5.   Regarding claim 76, Eguchi teaches: A method of applying two effects to an image, the

method comprising the steps of

- using a first microprocessor to apply a first effect to a first frame of said image, said first

microprocessor applying said first effect while emulating a second microprocessor (fig. 6) (GPU

Emulator);

-using said second microprocessor to apply a second effect to said first-effected frame,

applying said first effect to a next frame by said first microprocessor approximately

during the time that said second microprocessor is applying said second effect to said

first-effected frame (fig. 6) (CPU Emulator).

6.   Regarding claim 77, Eguchi teaches: The method wherein the first microprocessor is a

CPU and the second microprocessor is a GPU (fig. 11) (GPU Emulator).

7.   Regarding claim 78, Eguchi teaches: The method where emulation is effected through a

virtual machine (fig. 12).

8.   Regarding claim 79, Eguchi teaches: The method wherein emulation is effected through

translating a GPU program to a CPU program [0080] (The GPU emulator is a program for

converting a graphic processing function processed by the graphic processing unit (GPU) of the

second game machine into the function or the architecture adaptable to the CPU 74 of the first

game machine) (The function is the GPU program that is being translated into a CPU program).

9.   Regarding claim 80, Eguchi teaches: A computer-readable medium having computer

executable instructions for performing the method recited in claim 76 (fig. 2, 84).

Conclusion

10.	The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pub. Nos.: US 2001/0029205 A1; US 2002/0052728 A1; Patent Nos.: US 6,955,606 B2; 5,490,246.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAURICE MCDOWELL, JR whose telephone number is (571)270-3707. The examiner can normally be reached on Mon-Friday 7:30am - 5:00pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xiao Wu can be reached on 571--272-7761. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MM

/XIAO M. WU/

Supervisory Patent Examiner, Art Unit 2628